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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------|------------------------|
| 10/531,880 | 04/19/2005 | Trevor Burke | 078986-0218 | 4529 |
| 23392 7590 03/04/2008 FOLEY & LARDNER 2029 CENTURY PARK EAST SUITE 3500 LOS ANGELES, CA 90067 | | | EXAMINER SHELEHEDA, JAMES R | |
| | | | ART UNIT 2623 | PAPER NUMBER |
| | | | MAIL DATE 03/04/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,880

Applicant(s)

BURKE, TREVOR

Examiner

JAMES SHELEHEDA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/19/05, 6/21/06, 4/27/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 12 and 25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claimed computer programme, of claims 12 and 25, consists solely of Functional Descriptive Material. Such "descriptive material" is not a process, machine, manufacture or composition of matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 9-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burke (WO 99/03275 A1) (provided by applicant).

As to claims 1, 14, 15 and 16, Burke discloses a method for generating a programme for presentation to a user such that the presented programme is made up from a sequence of programme elements (page 3, lines 19-21) each of which is a programme clip taken from at least one distributed programme and each of which represents an event (page 3, line 29-page 4, line 6), each programme element being classified on the basis of the event represented by the programme element (page 3, line 29-page 4, line 6), each programme element being stored with at least one associated programme element classification code (page 3, lines 21-25), each classification code identifying a class to which the event represented by the associated programme element has been allocated (page 3, lines 21-25), and a programme being assembled for presentation to the user by selecting at least one programme classification code and generating an assembled programme in the form of a sequence of programme elements associated with the at least one programme classification code (page 3, lines 25-28), wherein programme elements are classified using a set of event classes including a plurality of subsets of the event classes (page 4, lines 7-21), classification of each programme element comprises a classification operator making at least one selection from at least one of the subsets (page 4, lines 7-21 and page 11, lines 1-8), said selection determining at least one of the subsets from which future selections can be made (page 4, lines 7-21), and the at least one selection generating the classification

code associated with the programme element (page 4, lines 7-21 and page 11, lines 1-8).

As to claims 2 and 17, Burke discloses wherein a plurality of programme elements representing temporally adjacent events are classified by the classification operator (page 11, lines 1-8 and page 16, line 29-page 17, line 9), and classifications of temporally earlier events determine the at least one subset of event classes from which the classification operator may make selections (page 4, lines 7-21, page 11, lines 1-8, and page 16, line 29-page 17, line 9).

As to claims 3 and 18, Burke discloses wherein the set of event classes contains classes having hierarchical relationships (page 4, lines 1-21), and the subsets from which future selections can be made are determined by the hierarchical relationships (page 4, lines 1-21 and page 4, line 26-page 5, line 4).

As to claims 4 and 19, Burke discloses wherein the at least one subset from which selections can be made is symbolically displayed to the classification operator (page 4, lines 7-21 and page 17, lines 10-23).

As to claims 5 and 20, Burke discloses wherein each of said event classes has an associated icon (page 4, lines 7-21 and page 17, lines 10-23).

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As to claims 6 and 21, Burke discloses wherein selection of an event class comprises selection of an icon (page 4, lines 7-21 and page 17, lines 10-23).

As to claims 7 and 22, Burke discloses wherein each of the said icons is a symbolic representation of events associated with a respective event class (Figs. 7-8; page 11, line 22-page 12, line 8)

As to claims 9 and 24, Burke discloses operator selection of a subjective assessment of programme element value (page 11, lines 1-8).

As to claims 10 and 23, Burke discloses selecting of a set of classes from a predetermined plurality of sets of classes (page 4, lines 7-21).

As to claim 11, Burke discloses user selection of a latency value associated with said user selection (page 17, lines 1-9).

As to claims 12 and 25, Burke discloses a computer programme for carrying out the method of claims 1 and 14 (see Figs. 1-2; page 6, line 25-page 7, line 12 and the rejection of claims 1 and 14 above).

As to claim 13, Burke discloses a carrier medium carrying computer readable program code configured to cause a computer to carry out the method of claim 1 (see Figs. 1-2; page 6, line 25-page 7, line 12 and the rejection of claim 1 above).

As to claim 26, Burke discloses a carry medium carrying computer readable program code configured to cause a computer to carry out the method of claim 14 (see Figs. 1-2; page 6, line 25-page 7, line 12 and the rejection of claim 14 above).

Conclusion

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

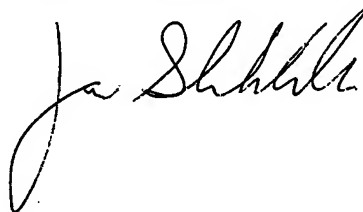
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda
Patent Examiner
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A handwritten signature in black ink, appearing to read 'Ja Sheleheda', written in a cursive style.

JS